

**TECHNICAL ASSISTANCE TO THE PUBLIC
PROCUREMENT PROCESS AND
CONSTRUCTION COST DATABASE**

**TRIP REPORT
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Prepared by

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Executive Summary

1 World Bank Institutional Development Fund Grant Ministry of Construction and Public Works Office of Public Procurement (OPP)

A contract has been concluded with the International Trade Center (ITC) UNCTAD/GATT, based in Geneva, Switzerland, to prepare standard bidding documents for goods, works, and services, and a set of procedural guidelines for procurement. The Ministry has also initialed the International Law Institute (ILI), Washington, D.C., contract to review the Public Procurement Law. The ILI contract to design and implement a training program is currently being processed.

A revised proposal from UEOS for local consultant services was submitted to the Office of Public Procurement (OPP) after negotiations were completed by the USAID advisor.

ITC has commenced its work, and a first meeting has been held with the OPP. Draft outlines for the standard bidding documents and procedural guidelines will be submitted by mid-July 1996, with review comments due by mid-August 1996. Draft documents will be completed by the end of September 1996.

2 Construction Cost Database

In order to meet a reduction in funding availability, it is proposed to analyze 40, rather than 60, construction projects during the pilot study for the construction cost database. The U.S./Slovak team is ready to commence this project and a start is scheduled during early August 1996. An Advisory Board will be reconstituted at that time, and key members will be the Private Construction Contractors Association of Slovakia (PCCAS) and the Association of Towns and Communities of Slovakia (ZMOS).

Section 2
World Bank
Institutional Development Fund Grant

.0International Trade Centre, UNCTAD/GATT, Geneva, Switzerland

Meeting: 17-18 June, 1996

ITC Consultant Team

Robert Smith Gillespie, Senior Program Officer, ITC

Team A - Standard Bidding Documents

John G. Rawdon - Team Leader

Robert Morgan - Public Works

Cerdic Warsillow - Machinery and Plant

Sarah Kelly - Consultant Services

Douglas Murray-Jones - Public Works, Technical Specifications

Team B - Procedural Guidelines

Manfred Schneider - Team Leader

Peder Blomberg - Procedural Guidelines

Representing the Slovak Government

Alastair G. Law - ANADAC/USAID

.0Project History

Mr. Law reviewed the history of USAID Technical Assistance to the Republic of Slovakia in the area of Public Procurement. This included support in the drafting of their Public Procurement Law — the first to be enacted in Eastern Europe. Subsequent to a World Bank Country Procurement Assessment Review, which made several critical recommendations regarding improvement of the law, the preparation of standard bidding documents, and developing a training program, USAID assisted the Slovak Office of Public Procurement in obtaining an Institutional Development Fund Grant from the World Bank, so that these recommendations could be implemented.

ITC was one of the two firms selected under this Grant, and this meeting signified an important milestone in the continuing development of public procurement in Slovakia. It is now quite possible that Slovakia will be the first country in Eastern Europe to issue standard bidding documents for goods, works, and services.

The ITC Team was critical to the success of this venture.

Mr. Law then described the structure of the Office of Public Procurement, the roles of other international and local consultants, and the overall schedule for the implementation of the IDF Grant. Two important issues were stressed.

- The Slovak Republic has applied for membership in the EU, and therefore they will have a strong interest in reflecting EU procurement directives and other European standards in the proposed bidding documents.
- All contact with the Office of Public Procurement should be considered as a “training event.” The Director and his small staff are enthusiastic, but will substantially look for guidance and direction from the consultants.

.1Revision to Public Procurement Law

Mr. Law provided the ITC Team with the official English translation of the revised Public Procurement Law (see Annex 1). Unfortunately, the translation is not of the most professional quality, and several clarifications will be necessary. It was apparent, however, that the critical issues addressed in the World Bank CPAR remain unchanged, and these will need to be dealt with under the ILI contract. Mr. Law explained the legislative process for introducing a new law, and it was noted that it took approximately one year to conclude its passage.

It was agreed, therefore, that the Standard Bidding Documents and the Procedural Guidelines must initially reflect the existing law, but have the flexibility to be changed after the new law is passed.

.2Proposed Agenda for Bratislava Meeting

Mr. Law circulated the Proposed Agenda for the meeting in Bratislava (see Annex 2), which he had sent to Mr. Bakay at the Office of Public Procurement.

.3Presentation Material

ITC had prepared a standard format for presentation to Slovak Authorities for use in developing the base models for Standard Bidding Documents (see Annex 3 for blank and completed sample formats). After extensive discussion on this format, it was concluded that, given the time and translation constraints, it would be most appropriate to review with the Slovaks only the chosen model, indicating its specific validity.

Mr. Schneider proposed to present an outline of the contents of the Procedural Guideline Document. It was agreed that this should reflect the procurement project cycle, as opposed to being a commentary on the public procurement law (see Annex 4).

.4Proposed Schedule

ITC proposed the following schedule for presentation of documents:

- Outline of all Standard Bidding Complete by mid-July
- Documents and Procedural Guidelines Office of Public Procurement review comments by mid-August
- Submit Draft Documents Week of 16 September. Review comments by mid-October.

.5Presentation Team

The ITC Team to meet with the Officer of Public Procurement in Bratislava comprised:

- John G. Rawdon - Team Leader A
- Manfred Schneider - Team Leader B

This team, accompanied by Mr. Law, traveled to Bratislava on 18 June 1996.

.1Ministry of Construction and Public Works

Office of Public Procurement

Meeting 19-25 June 1996

Present: M. Nevicky, General Director, Division of Public Works
M. Bakay, Director, Office of Public Procurement (OPP)
K. Nemethova, OPP
V. Baumova, Interpreter
J. G. Rawdon, ITC - Team Leader A
M. Schneider, ITC/GTZ - Team Leader B
A. G. Law, ANADAC/USAID

.0Office of Public Procurement

Mr. Nevicky welcomed the participants to Bratislava and spoke of the importance of efficient public procurement practices to the future economy of Slovakia. The State four-year plan had just been submitted to the federal government and represented an investment of SK 215 billion, covering all major Federal sectors. It also called for 182 primary construction projects in 15 geographical regions. The Office of Public Procurement believes that substantial savings (up to 45%) could be achieved in public spending given well-organized procurement documents and procedures.

.1ITC Presentation

.0

Mr. Rawdon reviewed the various options for standard bidding documents. Several important issues were raised and resolved with regard to the final content and format of the bidding documents.

- It is of prime importance that all bidding documents are based on current EU directives and legislation.
- The documents must reflect the current version of the Public Procurement Law PPL 263.
- The documents must reflect best international practices.
- The documents must be prepared so that they are flexible enough to accommodate the anticipated changes to PPL 263, in the knowledge that this will take at least one year to achieve.
- The World Bank sample bidding documents are acceptable models provided they are adapted to accommodate the foregoing provisions.
- If there is a conflict between EU Regulations and the Public Procurement Law, the PPL must take precedence.
- Slovakia is a member of GATT and must therefore comply with its directives.

.1

Mr. Schneider discussed the outline of the proposed set of Procedural Guidelines. Key issues that arose out of this presentation are as follows.

- The outline is comprehensive and follows a logical format.
- The glossary of terms will be critical, and is a first priority.
- The local consultants will provide a valuable service in reviewing all the references to other Slovak laws, contained in the PPL.
- It would be useful to obtain an English translation of the Commercial Code. (A copy is being sought from several sources.)
- Both the Procedural Guidelines and the Standard Bidding Documents must be capable of revision to accommodate:
 - changes in the law; and
 - experience in their use.

.2

There was some discussion regarding Technical Specifications, and their availability in Slovakia.

- Slovak technical standards are produced by the Institute for Normalization of Measurement and Standards. (It is understood that they are currently being revised.)

- Specifications for public housing, which were obligatory under the previous regime, have been abolished.

.2Technical Advisory Committee

A Technical Advisory Committee has now been formed, and is comprised of the following members:

- Dr. P. Kopal, Slovak Chamber of Commerce
- Mr. M. Gal, Association of Construction Entrepreneurs of Slovakia (CAS)
- Mr. J. Novak, Private Construction Contractors Association of Slovakia (PCCAS)
- Mr. P. Ifcic, Association of Towns and Communities of Slovakia

The Committee was briefed on the purpose and status of the IDF Grant. In turn, they had several comments and criticisms on Public Procurement in Slovakia.

- Better information on the financing of public tendering was required.
- They considered the evaluation of tenders was being done by “amateurs,” and much more training was required.
- What preferences were available for local bidders?
- They have experienced regulations being changed during the bidding period.
- Some contracts are still in place under the old commercial code.
- There are three organizations authorized to issue Price Guides (this clearly relates to the old price books).
- They recommended preparation of approved bidders lists, comprised of bidders who had been pre-qualified.

.3Wrap-up Sessions with ITC (Thursday - 20 June)

The Office of Public Procurement responded to several of the issues raised during prior meetings.

- The number of public procurements that had been solicited at the Federal level were as follows:

1994	3,487
1995	5,263
Through 30 April 1996	2,539

- The OPP felt many of the criticisms from the Advisory Committee arose out of their lack of knowledge of the Law.
- They were aware of the FIDIC conditions of contract, although there was no official translation. The Roads and Transport Directorate is using them under EBRD contracts.
- Under Clause 273 of the commercial Code, General Conditions of Contract can be published by Associations. The OPP is working with the PCCAS and the CAS to develop a set. They will follow the German VOB Code (Volumes B and C).

- The official Slovak procurement journal is published twice a month (5th and 20th). Advertisements must be submitted 20 days before. Typically, bidders have one week to pick up documents, and a minimum 36-day bidding period.

.4Contract Status

International Law Institute

The contract had been translated into Slovak by the foreign relations department. There were two issues requiring clarification.

- What happens in the event of a dispute?
- What is the contract schedule?

The answer to both questions were clear in the English version: disputes are resolved by arbitration under UNCITRAL rules and the schedule is in scope of work. This was relayed to the legislative department and the initialed contract was given to Mr. Law to return to ILI for final signature.

UEOS

The OPP had been unable to negotiate a contract with UEOS, whose proposal was still over budget. Mr. Law agreed to negotiate on behalf of the OPP. This was concluded on 21 June 1996. A revised proposal and contract was delivered to the OPP (see Annex 5).

Office Equipment

The OPP is awaiting funding from the Ministry of Construction and Public Works for office equipment. After this has been obtained, they will decide what equipment to purchase from the IDF Grant.

.5Central European Free Trade Association Conference (CEFTA)

Mr. Bakay again invited Mr. Law to participate in this Procurement Conference in October 1996. The final date is not yet set.

Section 2

Construction Cost Database

Meeting with UEOS 24-25 June 1996.

.2Program Funding

UEOS was informed that funding for the development of the Slovak Construction Cost Database was in the process of being finalized, but was substantially reduced from the original Business Plan proposal. The work would also be carried out in two phases. In discussion, it was agreed that in order to work within the budget, a maximum of forty (40) projects would be targeted, instead of the planned sixty (60).

It was also decided that the purchase of a computer and digitized board would have to be eliminated from the budget, at this time. It is hoped that alternative sources of funding might be found for this acquisition.

.3Project Schedule

Based on USAID funding being available by August 1996, it was agreed to commence the study during the week of 5 August 1996. Mr. Law will visit Bratislava at that time, when Igor Svec, the UEOS project manager, will have returned from vacation.

.4Advisory Board

During the week of 5 August 1996, a meeting will be held with the Advisory Board of potential users to brief them on the project. This Board was first constituted in 1995. Key members include the PCCAS and the Association of Towns and Communities of Slovakia.

.5ANADAC/UEOS Contract

ANADAC has issued UEOS a Technical Services Order for the Phase I local consultant services, to be implemented only when funding is confirmed.

ANNEXES

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